

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BLAIR WEBB

CIVIL ACTION NO. 11-CV-12830

Plaintiff,

DISTRICT JUDGE VICTORIA A. ROBERTS

vs.

MAGISTRATE JUDGE MONA K. MAJZOUB

FLINT, CITY OF, et. al.,

Defendants.

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ORDER TO STRIKE AMENDED COMPLAINT FILED AT DOCKET NO. 30

This is a *pro se* civil rights action filed by Plaintiff Blair Webb pursuant to 42 U.S.C. § 1983 on June 30, 2011. On October 6, 2011 Plaintiff filed a first amended complaint. (Docket no. 11). On December 21, 2011 Defendant City of Flint filed a Motion to Dismiss for Failure to State a Claim. (Docket no. 20). Plaintiff filed a response on January 18, 2012. (Docket no. 22). Subsequently, this Court recommended that the Motion to Dismiss filed by the City of Flint be granted. (Docket no. 31). The Court adopted the recommendation and dismissed Defendant City of Flint on August 7, 2012. (Docket no. 33). Three of the four individual Defendants named by Plaintiff have recently filed an answer to the amended complaint. (Docket no. 34). Defendant Urban, the fourth individual Defendant named by Plaintiff, has not been served. (Docket no. 16).

On June 11, 2012 Plaintiff filed a "Complaint" against a new Defendant, Officer Jeff Bauermeister, claiming that Bauermeister engaged in a cover-up during an investigation he performed on a prior excessive force case filed by Plaintiff. (Docket no. 30). The complaint, which is Plaintiff's second amended complaint, names Jeff Bauermeister but does not name or state any

claim against the individual Defendants identified in the first amended complaint. All pretrial proceedings have been referred to the undersigned for action. (Docket no. 10).

Federal Rule of Civil Procedure 15(a) provides that a “party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1)(A),(B). Otherwise “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Fed.R.Civ.P. 15(a)(2).

Plaintiff filed his second amended complaint without obtaining leave of this Court or written consent of the Defendants, as required by Rule 15(a), Fed. R. Civ. P. Accordingly, the Court will strike the complaint filed at docket no. 30 for failure to comply with Rule 15.

IT IS THEREFORE ORDERED that the complaint filed at docket no. 30 is stricken for failure to comply with Federal Rule of Civil Procedure 15.

NOTICE TO THE PARTIES

Pursuant to Federal Rule of Civil Procedure 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: September 5, 2012

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Blair Webb and Counsel of Record on this date.

Dated: September 5, 2012

s/ Lisa C. Bartlett
Case Manager